

PHILLIP A. TALBERT  
United States Attorney  
LYNN TRINKA ERNCE  
Assistant United States Attorney  
501 I Street, Suite 10-100  
Sacramento, CA 95814  
Telephone: (916) 554-2700  
Facsimile: (916) 554-2900

Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN MARCUS DESENBURG,

Defendant and Debtor.

TD AMERITRADE CLEARING, INC.,

Garnishee.

Case No. 1:22-MC-00012-BAM

**~~PROPOSED~~ STIPULATED FINAL  
ORDER OF GARNISHMENT**

Criminal Case No. 1:11-CR-00406-LJO-SKO

The United States of America (“United States”) and defendant/judgment debtor John Marcus Desenberg (“Debtor”) hereby request that the Court enter this Stipulated Final Order of Garnishment based on the following:

**RECITALS**

1. On or about April 8, 2013, the Court sentenced Debtor in criminal case 1:11-CR-00406 LJO SKO, and ordered him to pay a \$200 statutory assessment and \$300,000 of restitution. As of January 12, 2023, debtor still owes restitution of \$214,195.68.

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2. On January 20, 2022, the United States filed an Application for Writ of Garnishment against Debtor's interest in property held by TD Ameritrade Clearing, Inc. ("Garnishee"). ECF 1.

3. The Clerk of the Court issued the Writ and Clerk's Notice to Debtor. ECF 3 and ECF 2. The United States served the Writ and related documents on Garnishee and Debtor. ECF 4 and 6.

4. On January 24, 2022, Garnishee served its Acknowledgment of Service and Answer of Garnishee on Debtor and the United States ("Answer"). ECF 5. In its Answer, Garnishee stated that it has possession of an individual brokerage account ending in 9195 with an approximate total value of \$152.34, which is subject to market fluctuations and deposits. *Id.* As of November 30, 2022, the account held \$802.44.

5. Debtor did not file a claim of exemption to the proposed garnishment or request a hearing, did not object to Garnishee's Answer, and did not otherwise object to the United States' garnishment action.

### **STIPULATION**

The United States and Debtor hereby stipulate and agree as follows:

A. The United States and Debtor consent to entry of an order approving this Stipulation by a magistrate judge, and consent forms so stating are concurrently filed with this Stipulation.

B. Debtor acknowledges and understands that the Federal Debt Collection Procedures Act ("FDCPA") affords him certain rights in a garnishment action. He waives these rights, including service of the writ of garnishment pursuant to 28 U.S.C. § 3205(c)(3); notice of and the right to claim exemptions and request a hearing as provided in 28 U.S.C. §§ 3202 and 3205(c)(5); and to any other process to which he may be entitled under the FDCPA.

[TEXT AND SIGNATURES CONTINUE ON NEXT PAGE]

C. The Court should grant the Writ of Garnishment against the TD Ameritrade account ending in 9195, and Garnishee should disburse all funds held in the account ending in 9195 to the Clerk of Court to be applied towards Debtor's restitution obligation by approving the proposed Order set forth below.

Respectfully submitted,

Dated: 01/13/2023

PHILLIP A. TALBERT  
United States Attorney

By: /s/ Lynn Trinka Ernce  
LYNN TRINKA ERNCE  
Assistant United States Attorney

Dated: 01/13/2023

/s/ John Marcus Desenberg  
JOHN MARCUS DESENBURG

\* \* \*

**~~PROPOSED~~ FINAL ORDER OF GARNISHMENT**

Based on the foregoing stipulation between the United States of America and John Marcus Desenberg, and good cause appearing therefore,

IT IS HEREBY ORDERED that:

1. The foregoing Stipulation is APPROVED in its entirety, and the parties' request for a final order of garnishment IS GRANTED;

2. TD Ameritrade Clearing, Inc. is directed to pay the Clerk of the United States District Court all the funds held by Garnishee within fifteen (15) days of the filing of this Final Order of Garnishment. Payment shall be made in the form of a cashier's check, money order, or company draft, made payable to the "Clerk of the Court," and delivered to:

Office of the Clerk of Court  
U.S. District Court, Eastern District of California  
501 I St., Rm. 4-200  
Sacramento, CA 95814

The criminal docket number (1:11-cr-00406-LJO-SKO) shall be stated on the payment instrument;

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1           3.       The Court shall retain jurisdiction to resolve matters through ancillary proceedings in the  
2 case, if necessary; and

3           4.       The garnishment shall terminate, and the Clerk of Court is directed to close this case,  
4 when the payment is deposited with the Clerk.

5  
6 IT IS SO ORDERED.

7       Dated: January 17, 2023

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE